

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of

Improving Public Safety Communications in  
the 800 MHz Band

Consolidating the 900 MHz Industrial/Land  
Transportation and Business Pool Channels

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WT Docket No. 02-55

To: The Commission

**COMMENTS OF  
PREFERRED COMMUNICATION SYSTEMS, INC.  
ON SUPPLEMENTAL COMMENTS OF THE CONSENSUS PARTIES**

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**COMMENTS OF PREFERRED COMMUNICATION SYSTEMS, INC. ON  
SUPPLEMENTAL COMMENTS OF THE “CONSENSUS PARTIES”**

Preferred Communication Systems, Inc. (“Preferred”), on behalf of itself and its affiliates, hereby submits its Comments upon the Supplemental Comments (“Supplement”) filed by Nextel Communications, Inc. (“Nextel”) and others (collectively, the “Nextel Group”) on December 24, 2002.<sup>1</sup> As discussed herein, the so-called “Consensus Plan”, as amended by the Supplement, remains an unfair solution and inappropriate proposal for attempting to remedy interference to Public Safety. In these Comments, Preferred amends and resubmits an alternative plan (“Balanced Plan”) for the Commission’s consideration. The Balanced Plan does a better job of ameliorating interference to Public Safety, generates more funds to cover relocation costs, minimizes disruption to innocent incumbents as well as the amount of money needed to cover reimbursement expenses, provides more additional spectrum for both public safety and Business and Industrial Land Transportation licensees, and avoids the constitutional taking issues which are so significant in the Nextel “Consensus Plan” as amended by the Supplement (“Supplement Plan”).

## **EXECUTIVE SUMMARY**

In its *Notice of Proposed Rulemaking* herein,<sup>2</sup> this Commission set forth the following goals for itself in this proceeding: 1) minimize harmful interference to Public Safety units; 2) at reasonable cost; 3) with minimal disruption to the current licensing scheme; 4) while assuring sufficient spectrum allocation to meet the current and future needs of Public Safety. The question before the Commission is whether any of the proposals before it meets all four of those goals, and if so, which proposal best addresses those goals in a Constitutionally-acceptable and/or statutorily-acceptable way. The Supplement Plan does not minimize interference to Public Safety any better than the Balanced Plan, although the Supplement Plan would cost far more to implement without providing any realistic funding mechanism. The Supplement Plan causes far greater disruption to the current licensing scheme than does the Balanced Plan. The Supplement Plan provides no more spectrum to Public Safety than does the Balanced Plan. Accordingly, it would be arbitrary and capricious for the Commission to choose the Supplement Plan over the Balanced Plan.

## **OUTLINE OF THE BALANCED PLAN**

The Balanced Plan starts from the same premise as does the Supplement Plan – attempt to minimize intermodulation interference to Public Safety by physically separating Public Safety operations to the extent possible from cellularized SMR operations in the 800 MHz band. The Balanced Plan, unlike the Supplement Plan, goes on to address the greater problem of

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<sup>1</sup> These Comments are timely filed. See *Order Extending Time for Filing of Comments*, DA 03-163 (WTB, released January 16, 2003).

<sup>2</sup> *Improving Public Safety Communications in the 800 MHz Band, Consolidating the 900 MHz industrial/Land Transportation and Business Pool Channels*, Notice of Proposed Rulemaking, 17 FCC Rcd. 4873, 4875 (2002).

desensitization interference to Public Safety, which type of interference would not be ameliorated by the Supplement Plan.

The Balanced Plan proposes a **reciprocal** trade of 800 MHz spectrum on a region-by-region basis, as and when full funding becomes truly available, so as to preserve to the extent practicable the existing rights and justified expectations of current licensees. Specifically, the Balanced Plan proposes to have a reciprocal trade of 866-869 MHz spectrum (today's NPSPAC spectrum) for 851-854 MHz spectrum (today's channels 1-120, allocated for SMR operations, except for a few grandfathered stations predating 1995), while avoiding the break-up of contiguous spectrum blocks purchased so recently at Auction No. 34 by the various EA licensees. Under the Balanced Plan, this reciprocal trade would be accompanied by a trade of geographic license rights between the Auction No. 34 EA licensees respecting channels 121-150, on the one hand, and their upper 200 auction licensee counterparts respecting channels 571-600 on the other hand. The trades would be roughly as follows:

- a) Current licensees at channels 1-50 (EA or site-specific) receive replacement spectrum from the top 1.25 MHz of the current NPSPAC band (867.75-869 MHz);
- b) Current licensees at channels 51-100 (EA or site-specific) receive replacement spectrum from the middle 1.25 MHz of the current NPSPAC band (866.50-867.75 MHz);
- c) Current licensees at channels 101-120 (EA or site-specific) receive replacement spectrum from the bottom portion of the current NPSPAC band (866-866.50 MHz);
- d) Current "General Category" EA licensees trade their spectrum rights at channels 121-150 (854-854.75 MHz) for the spectrum rights of upper 200 EA licensees (virtually always Nextel) at channels 571-600 (865.25-866 MHz)<sup>3</sup>;
- e) Current NPSPAC licensees relocate to 851-854 MHz.

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<sup>3</sup> If such channels are unavailable, as in the Puerto Rico EA market, among others, the current General Category EA licensees would receive a portion of the 1.9 GHz PCS spectrum. In such case, site-specific SMR licensees would be relocated to channels within the Interleave to be vacated by Nextel.

As with the Supplement Plan, channels 121-400 would be designated as a non-cellularized buffer between the new Public Safety allocation (851-854 MHz) and the cellularized-eligible spectrum.<sup>4</sup> If and to the extent that any grandfathered non-SMR licensees at channels 1-120 desire to trade with Nextel (or anyone else) holding equivalent spectrum at channels 121-400, rather than move to the newly cellularized-eligible 866-869 MHz spectrum, they would be free to trade (and thereby trade their rights to be reimbursed for moving into 866-869 MHz).<sup>5</sup>

In addition, to ameliorate the problem of desensitization interference, the Balanced Plan proposes certain technical solutions and mitigation tactics including restricting the use of downtilt antennas in certain urban areas.<sup>6</sup>

Under the Balanced Plan, the proposed new allocation at 1.9 GHz would be available for all existing 800 MHz EA licensees, according to how much spectrum they would lose, either at channels 1-150 or at channels 571-600. Rather than only Nextel receiving that virgin spectrum, it would go *pro rata* to all EA licensees that wind up losing some part of an existing auction license footprint due to the unavailability of replacement cellularized-eligible spectrum at 800 MHz.

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<sup>4</sup> As the Supplement Plan proposes, Southern LINC's present cellularized service systems in the Interleave would be grandfathered. The Balanced Proposal would extend this grandfathering to Nevada Wireless LLC and other licensees operating cellularized systems in the Interleave Channels and to all Non-Nextel Lower 80 EA licensees. *See generally* Nevada Wireless Comment filed on February 3, 2003.

<sup>5</sup> To the extent that Nextel claims to hold large amounts of spectrum at channels 121-400 that it is willing to make available for Public Safety incumbents now at channels 1-120, this would present an opportunity for Nextel to trade with such incumbents and inherit their rights to move to the 866-869 MHz band.

<sup>6</sup> Preferred's recommendations concerning minimizing near-term interference, which are set forth on pages 23-24 of its Comment filed on September 23, 2002 support suggestions

Where there is more spectrum available in any given EA at 1.9 GHz than is needed to reimburse EA licensees from that same EA, all EA licensees that either lost cellularized-eligible spectrum and were forced to receive some 1.9 GHz spectrum in that EA, or were forced to relocate in that EA, will have the right to acquire additional 1.9 GHz spectrum within that EA by paying into the relocation fund..

In this way, the reallocation of 1.9 GHz spectrum becomes a true reallocation, as opposed to a give-away to favor one private company, and any non-Nextel EA licensee forced to receive spectrum in that band is assured of the right to acquire enough spectrum in the band to make it useable. Finally, it becomes a mechanism to attract funding from additional sources, as opposed to relying entirely upon Nextel.<sup>7</sup>

Under the Supplement Plan, all non-Nextel EA licensees in the 851-854 MHz band are to be relocated immediately nationwide, not on any region-by-region basis to coincide with Public Safety relocation into 851-854 MHz, ostensibly to “tak[e] these more complex relocations ‘off the table’”. Supplement, p.20. However, because under reciprocity of the Balanced Plan there is no special complexity to EA relocation, these EA relocations would happen on a region-by-region basis, as and when the full funding for a particular region becomes available. This will

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previously advanced by the United Telecom Council, the Private Wireless Coalition and Motorola, Inc.

<sup>7</sup> As both the primary cause of today’s interference and the single largest existing licensee (through both EA and site-specific licenses) in channels 1-120, Nextel is both responsible for the problems which led to this proceeding and the largest non-Public Safety beneficiary of the proposals in the Balanced Plan. As such, Nextel should be required to contribute the greatest amount to the necessary fund for reimbursing those who are relocated involuntarily. Moreover, if Nextel, under the Balanced Plan, receives the majority of the spectrum at 1.9 GHz, that is still more fair than granting 100% of it to Nextel, when Nextel does not own 100% of the SMR spectrum at 800 MHz. For an illustration of the frequency blocks in the 175 EA markets Nextel and other General Category EA licensees actually hold, see Exhibit A hereto.

insure that no EA licensee is unnecessarily forced off its spectrum in a region where, due to lack of funding, the Public Safety relocation may well never take place.

Under the Balanced Plan, all EA construction build-out deadlines for channels 1-150 will be suspended indefinitely, pending the completion of finalization and full funding of the relocation plan for the involved Public Safety region. Once finalization and full funding were in place, each involved EA would have a two-year period within which to meet its original five-year build-out threshold of either 2/3 coverage or “substantial service” to the area.<sup>8</sup> The interim three-year coverage requirement would be eliminated. This will allow EA licensees to avoid having to construct and then retune, and will save many millions in relocation costs. It also will recognize that the initiation and pendency of this proceeding (including for example the Supplement proposal to prohibit all non-Nextel EA licensees from ever constructing cellularized operations) have destroyed the ability of non-Nextel EA licensees to obtain financing to construct their respective systems at this time, and will continue to do so until this proceeding is concluded.<sup>9</sup>

The above represents an outline of the Balanced Plan, because unlike Nextel, neither Preferred nor other non-Nextel licensees that would be forced to relocate have been afforded the opportunity to meet with Public Safety to work out any details. However, Preferred stands ready to do so, and to include Nextel in any such discussions. Preferred also believes that Southern

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<sup>8</sup> See Section 90.685(b) of the Commission’s Rules.

<sup>9</sup> Indeed, given that this Commission specifically touted the lower 230 channels (including channels 1-120) as particularly well-suited to future cellularized SMR operations when it recently sold them in Auction No. 34, and then followed almost immediately with the current proposal to prohibit the auction winners from operating cellularized systems, the Commission should, in fairness, eliminate the three-year build-out threshold of Section 90.685(b) and extend the five-year threshold therein indefinitely pending the outcome of this proceeding, whether or not the Commission chooses to adopt the Balanced Plan. Failure to grant relief from the deadlines of Section 90.685 under the current circumstances would be arbitrary and capricious.



Line and many other affected parties that are not part of the current Nextel Group would be willing to participate in discussions that use the Balanced Plan, as opposed to the Supplement Plan, as a starting point.

## **DISCUSSION OF DEFICIENCIES IN THE SUPPLEMENT PLAN**

### **I. The Supplement Fails to Propose Adequate Reimbursement to Innocent Persons**

#### **A. Licensees Forced onto Inferior Spectrum Are Entitled to Reimbursement**

Licensees on channels 1-120 today hold valuable spectrum. This is spectrum where they were told cellularized SMR operations would be encouraged<sup>10</sup>. This Commission recently sold the limited remaining white space in this band for over three hundred million dollars by so advertising this spectrum.<sup>11</sup> The Supplement proposes to take Preferred and all other non-Nextel licensees in this band and force them onto other, far less valuable spectrum, where cellularized operations will be prohibited.<sup>12</sup>

Such forced relocation is a confiscatory taking, equivalent to a government exercise of eminent domain. As such, under the Fifth Amendment of the U.S. Constitution, the persons

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<sup>10</sup> In promulgating rules for the auction of Lower 80 and General Category channels, the Commission explicitly encouraged the participation of a diverse group of prospective bidders to seek EA market licenses large enough to form the basis for wide-area systems, thus fulfilling the FCC's mandate of Section 309 (j) (3) (B) & (4) (C) of the Communications Act. *Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Band*, Second Report & Order (1997) paragraph 2 ("Second Report & Order").

<sup>11</sup> Preferred alone paid the Commission over thirty-one million dollars in Auction No. 34 for licenses in this spectrum.

<sup>12</sup> In establishing the rules for auctioning the white space in the 800 MHz SMR band, the Commission explicitly recognized the importance of contiguous spectrum to the competitive viability of a wide-area SMR system since it permits use of broadband technologies available to other CMRS providers. *See Amendment of Part 90 of the Commission's Rules to Facilitate Development of SMR Systems in the 800 Frequency Band*, PR Docket No. 93-144, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking, 11 FCC Rcd 1463, 1477-1479 (1995) ("First Report and Order").

whose licenses are taken must receive full reimbursement. Spectrum at channels 121-400, where cellularized operations will be unlawful, is not full reimbursement.<sup>13</sup>

Nor is it correct to say that the Commission always holds the power to modify existing licenses in the public interest, and that this continuing power limits the justified expectations and rights of spectrum licensees. Here, the Commission has just spent the last seven years touting this specific spectrum as available for cellularized operations and selling off the remaining white space on that basis. In context, any move now by this Commission to forcibly relocate existing 851-854 MHz licensees to less valuable spectrum must provide for compensation for the diminution in spectrum value, or it will be deemed arbitrary and capricious by a reviewing court.

In contrast, the Balanced Plan contemplates a reciprocal trade, as opposed to the Supplement's proposal to have Public Safety trading down to 851-854 MHz and Nextel alone among current 851-854 MHz licensees trading up. Under the Balanced Plan, no current SMR licensee, either EA or site-specific, is forced onto non-cellularized-eligible spectrum. Thus, under the Balanced Plan, no licensee is damaged by a diminution in the value of its spectrum, and the issue of confiscatory taking (and reimbursement therefor) is eliminated as an issue.

#### **B. The Supplement Materially Understates Replacement/Retuning Costs**

Preferred maintains that the \$850 million estimated by the Consensus Parties to pay for all of the relocation costs of its Plan grossly underestimates the costs of relocating public safety licensees, much less SMR and B/ILT licensees. The Supplement Plan largely based its cost

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<sup>13</sup>The Commission did force the relocation of 800 MHz incumbents off the "upper 200" channels. However, there was no claim in that case that the new spectrum to which incumbents were being forced was less valuable. (Indeed, since much of the relocation was to channels 1-120, the new spectrum generally was of equal value.) The question of whether compensation for a forced trade to less valuable spectrum is an eminent domain type of taking was not before the Court of Appeals in that case. *See Fresno Mobile Radio, Inc. v. FCC*, 165 F.3d 965, 972 (DC Cir. 1999).

estimate on the following assumptions: 1) 2.6 million public safety radios presently are in use; 2) one percent (1%) of these radios will need to be replaced, as opposed to re-tuned; 3) at a cost of \$3,000 each. Thus, the total “covered cost” for replacing public safety radios would be only \$78 million. If, as intimated by the Public Safety Organizations in the Supplemental Comment,<sup>14</sup> this estimate is too low, the total cost would increase by \$78 million for each additional one percent (1%) of public safety radios that need to be replaced. The following table illustrates the impact of such replacement percentage figure at different percentage points:

- If the correct replacement figure is two percent (2%), the additional cost would be \$78 million;
- If the correct replacement figure is five percent (5%), the additional cost would be \$312 million;
- If the correct replacement figure is ten percent (10%), the additional cost would be \$702 million;
- If the correct replacement figure is twenty percent (20%), the additional cost would be \$1.5 billion;
- If the correct replacement figure is twenty-five percent (25%), the additional cost would be \$1.9 billion;
- If the correct replacement figure is thirty percent (30%), the additional cost would be \$2.3 billion; and
- If the correct replacement figure is forty percent (40%), the additional cost would be \$3 billion.

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<sup>14</sup> See Supplemental Comment, pp. 6-7.

This one percent (1%) estimate by the Supplement Plan conflicts with the estimate by Motorola, Inc. in its May 6, 2002 Comment that approximately thirty to forty percent of 800 MHz mobiles/portables could not be retuned and would need to be replaced with new equipment.<sup>15</sup>

Moreover, in meetings recently attended by Preferred's engineering consultants with public safety organization representatives and other industry participants, the consensus was that at least \$1.5-\$2.0 billion would be required to relocate only public safety licensees.<sup>16</sup>

Moreover, the Supplement, Appendix A, p.4, estimates that only "5% of the Business/Industrial/SMR radios will have to be replaced during realignment. . ." Nextel bases this assumption on its supposed experience in the upper 200 channels relocation. *Id.*, Appendix A, p.2. However, Preferred's technical team believes, based upon over twenty years of experience in the 800 MHz arena, including construction and design of many Public Safety systems as well as SMR systems, at least 25% of all mobile units cannot be retuned and would have to be replaced. This means that the Supplement's estimate of the cost of replacing units that cannot be retuned is only one-fifth of the actual cost of replacements.

The cost of replacement includes not merely the purchase of the new unit, but also programming, tuning, removal of the old unit and installation of the new unit. However, Nextel is conspicuously silent on the question of how much it has assumed the average cost of either retuning or replacement of mobile units would be. No dollar amounts are given. We are told only that Nextel has put together the largest concentration of data ever, so we should trust Nextel. Supplement, Appendix A, p.2. Such an absence of data in the Supplement, when the

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<sup>15</sup> Motorola, Inc. Comment filed May 6, 2002, p. 25.

<sup>16</sup> In an Amended Comment or Reply Comment, Preferred will provide a detailed nationwide cost analysis both of the Nextel Group's Proposal and of the Balanced Proposal that would include all public safety, B/ILT and SMR licenses.

data obviously exists in Nextel's files, means that the Supplement cannot be the basis of any rational finding of fact concerning whether adequate funding is proposed.

## **II. The Supplement Plan Unfairly Favors Nextel with New Spectrum**

Only recently, Preferred and others competed against Nextel in Auction No.34 to obtain the EA licenses for the lower 230 channels, including channels 1-120. Nextel won some of those auctions, but Nextel did not win them all. The Supplement Plan proposes to strip all non-Nextel auction winners of their auction wins, and turn the spectrum over to Nextel. Remember, the Supplement Plan starts from the premise that the current 3 MHz Public Safety block becomes a cellularized-eligible SMR block and the current 3 MHz cellularized-eligible SMR block becomes a Public Safety block. Thus, an existing EA licensee has purchased a block of cellularized-eligible spectrum, and if there is a reallocation/trade, it would own the mirror spectrum in the replacement 3 MHz band.

However, where today Preferred is the EA licensee, the Supplement Plan proposes to give what should be Preferred's replacement cellularized-eligible spectrum at 866-869 MHz not to Preferred, but to Nextel (the auction loser). In fact, once Public Safety vacates the 866-869 MHz band, rendering it virgin, unencumbered spectrum, the Supplement Plan proposes that Nextel receive all of it, even though Nextel had nowhere near 100% of both the site-specific and EA licenses at 851-854 MHz.<sup>17</sup>

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<sup>17</sup> Despite re-working the 800 MHz realignment provisions so as to move the "excess" channels of Non-Nextel General Category EA licensees to the Upper 200 Channels beginning with Channel 401, the Plan remains mathematically unworkable in the Puerto Rico EA market, among others. See Supplemental Comment, p.19 and n. 30. In such markets, the Non-Nextel General Category EA licensee's 1-120 channels would be moved first to the Interleave (Channels 151-400, where available), then to Nextel's Upper 200 Channels, where available, and then perhaps to NPSPAC or even the 900 MHz band. The Supplement Plan apparently failed to take this

As noted in Preferred's Comment filed on September 23 2002, the Commission auctioned the remaining white space in the 800 MHz band to participants seeking to provide cellularized service on contiguous frequencies. In this context, it is important to note that the term white space refers both to available frequencies (so-called "clean" channels or spectrum) and to geographical market areas or population coverage areas within the larger EA market outside of the site-specific licensees' licensed areas.

Under the Nextel Group's Plan, in EA markets in which Nextel won a majority of the General Category authorizations in Auction No. 34, it would convert spectrum encumbered to the extent of 10%-80% of the population, depending upon the particular frequency block and EA market, to clean contiguous spectrum. Such expansion of its licensed area clearly would constitute a new license thereby both invoking the requirements of Section 309 (j) of the Communications Act of 1934, as amended, and failing to satisfy them.

In EA markets in which Nextel failed to win a majority of the General Category authorizations in Auction No. 34, it necessarily would exchange site-specific licenses encumbered by Non-Nextel bidders' EA authorizations for unencumbered EA licenses in the present NPSPAC channels. Such exchange involving both additional channels and considerable expansion of Nextel's geographical coverage or population coverage areas, also invokes the requirements of Section 309 (j) cited immediately above and again fails to satisfy them.<sup>18</sup>

This aspect of the Supplement Plan is not merely unnecessary to its implementation, it is totally disruptive to the Commission's present licensing scheme and completely unjust. If Nextel

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possibility into account. See Preferred Comment, pp. 25-26 that was filed on September 23, 2002.

<sup>18</sup> In an Amended Comment or its Reply Comment, Preferred will provide Population Coverage data and maps for all EA markets. This data and maps will include the population coverage by frequency and site for the General Category channels in these EA markets.

desired such a solution, it should have bought 100% of the EA licenses. Having failed to do so, this Commission should not be party to Nextel overcoming the auction results through regulatory manipulation.

### **III. The Supplement's 900 MHz "2-for-1" Incentive Is a Mirage**

The purported 2-for-1 offer to encourage existing 800 MHz licensees to voluntarily move to 900 MHz is a side-show diversion. Under the proposal in the Supplement, pp. 24-25, any existing licensee wishing to avail itself of this "opportunity" must do so in writing within 60 days after the Commission issues a decision in this proceeding.

Each 800 MHz licensee must make this irrevocable decision seven months before Nextel is obligated to put forth any reimbursement proposal to the licensee. Thus, the existing licensee is deprived of any chance to compare the differing options, or to make any rational assessment of whether moving to 900 MHz would be preferable.

Finally, if the licensee does decide to relocate to 900 MHz, it receives a primary license for only the same amount of spectrum that it relinquishes, a 1-for-1 trade. Specifically, one-half of its new 900 MHz spectrum is to be issued on a secondary, non-interference basis to Nextel's co-channel 900 MHz operations so long as Nextel remains licensed at 900 MHz. This is an indefinite period, especially if funding for relocations runs out part way through the process. Under the circumstances, the Supplement makes no viable offer regarding 900 MHz spectrum.<sup>19</sup>

### **IV. The Proposed Arbitration Process Is a Stacked Deck**

The Supplement proposes to resolve any SMR licensee's contested reimbursement claims through an arbitration panel s run by a Relocation Coordination Committee ("RCC"). The RCC

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<sup>19</sup> Although a licensee is offered the extra spectrum early if it waives all of its legitimate reimbursement payments, this is nothing more than an offer by Nextel to sell some of its 900 MHz spectrum. It is no "incentive."

is proposed to have five members: one from Nextel, two from Public Safety, and two others from private wireless interests. Presumably, the two private wireless representatives would be named by the same private wireless groups that are today supporting the Supplement Plan, *i.e.*, they would not be CMRS licensees. A minimum of 80 % of every panel, and generally 100% of every panel, would be completely antithetical to non-Nextel SMR licensees. Also, Nextel will pay arbitration bills. Unlike non-Nextel entities, who will generally have only a small number of arbitration cases, Nextel will have hundreds, and each arbitrator knows the prospect of future work is dependant upon remaining in Nextel's good graces.

According to the Supplement, SMRs would have no right of review of any arbitration decision. Moreover, the arbitration panel in each case would accept *in toto* the dollar amount put forth by either Nextel or the SMR licensee, so the only way for any SMR licensee to win the arbitration is if the panel decides to completely reject Nextel's position. There is no chance for Preferred or any other non-Nextel commercial licensee to obtain a fair hearing.

## **CONCLUSION**

The Balanced Proposal sets forth in this Comment clearly meets all of the standards announced by the Commission in this proceeding far better than does the Consensus Parties' Plan set forth in their Comment filed on August 7, 2002, their Reply Comment filed on September 23, 2002 and their Supplemental Comment. The Balanced Plan sets forth near-term solutions to public safety interference by CMRS providers while also realigning the 800 MHz band to address intermodulation interference in a way that preserves the license rights of SMR site-specific and EA licensees, and thus the Commission's licensing scheme.



Preferred understands that it will need to amend this Comment with nationwide 800 MHz band licensing information and relocation cost analysis and is committed to providing such information and analysis within the near future. Preferred also stands ready, willing and able to meet with public safety organizations, Business and Industrial Land Transportation, SMR site-specific and EA licensees, and Nextel to discuss its Plan and to seek to fashion a true consensus among all 800 MHz band licensees.

Respectfully submitted,

**Preferred Communication Systems, Inc.**

February 10, 2003

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